

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 582 - SB 674

March 2, 2009

SUMMARY OF BILL: Broadens the Class A felony of second degree murder to include knowingly or intentionally throwing, casting, hurling, projecting, or shooting any object at, on, or into any motor vehicle resulting in the death of another. No intent to cause death or injury shall be required for conviction of this offense.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$72,100/Incarceration*

Assumptions:

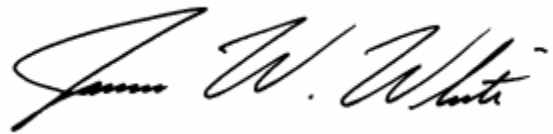
- According to the Administrative Office of the Courts (AOC), these incidents do not appear to be very common. Depending on the facts and circumstances, the behavior which would fall within the language of this bill may constitute second degree murder under existing law. The AOC does not believe that the provision which states intent is not required will have a significant impact on the number of convictions since current law does not require such intent.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2009 is \$59.80. DOC estimates one additional offender every three years as a result of this bill. The 1999/2000 Sentencing Matrix reflects a person convicted of second degree murder after July 1, 1995, would have to serve 85 percent (17 years) of a 20-year sentence.
- According to the District Public Defenders Conference, incidents that would otherwise be prosecutable as reckless homicide (Class D felony) would be prosecuted as a Class A felony. A negotiated settlement in such cases will be less likely and may result in more trial cases. The increase in these types of cases is estimated to be not significant.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.

- According to DOC, the average post-conviction time served for a Class D felony is 2.43 years. The annualized time served per conviction for a Class D is 292.45 days (0.33 annual number of convictions x 886.22 days served). The annualized time served per conviction for a Class A in the tenth year is 1,498.22 days (0.33 annual number of convictions x 4,540.05 days). The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every three years serving an additional 1,205.77 days (1,498.22 days - 292.45 days). The annualized cost is \$72,105.05 (\$59.80 x 1,205.77 days).
- Any impact on caseloads for the state trial courts can be handled within existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc